

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

CARL D. GORDON,)	Civil Action No. 7:15-cv-00095
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
DIRECTOR FRED SCHILLING, et al.,)	By: Joel C. Hoppe
Defendants.)	United States Magistrate Judge

The plaintiff in this civil rights case under 42 U.S.C. § 1983, Carl D. Gordon, is an inmate proceeding pro se and in forma pauperis. By separate order, this case will be set for trial and the parties have also requested a referral to mediation. During a status conference on November 6, 2019, Gordon made an oral motion for appointment of counsel.

The court has no authority under 28 U.S.C. § 1915(e)(1) to require an attorney to represent an indigent, civil plaintiff because the court has no authority to compensate counsel for the work done on such a case. *See Mallard v. U. S. District Court*, 490 U.S. 296, 309 (1989) (applying prior version of § 1915(d)); *Ivey v. Harney*, 47 F.3d 181, 185 (7th Cir. 1995) (“We know from [*Mallard*] that a court may not order even a member of its bar to donate services to a plaintiff in an action under 42 U.S.C. § 1983.”). Nevertheless, the court has discretion to request that an attorney represent an indigent plaintiff in exceptional circumstances. *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir.1984), *abrogated on other grounds by Mallard*, 490 U.S. at 309. I have not found exceptional circumstances in Gordon’s case.

In furtherance of the interests of justice, however, and as part of this court’s efforts to have members of the bar undertake representation of indigent and incarcerated pro se plaintiffs in matters of this nature that are set for trial, I hereby GRANT Gordon’s oral motion to the extent that the court will invite attorneys, via email, to enter an appearance on the plaintiff’s behalf

within 14 days of this Order's entry. If no attorney enters an appearance on the plaintiff's behalf within 14 days from the entry of this order, however, plaintiff should be prepared to continue to prosecute the action pro se.

It is so ORDERED.

The Clerk shall send a copy of this Order to the parties.

ENTER: November 7th, 2019

s/ Joel C. Hoppe
United States Magistrate Judge